

## REMARKS

In response to the Office Action dated March 3, 2009, claims 1, 17, 22, 35 and 46 have been amended. Claims 2, 5-7, 9-12, 14-16, 18-21, 23, 26-28, 30-33, 36, 39, 41-44, 47, 50-52 and 54-57 are pending in the application.

In paragraph 3 on page 2 of the Office Action, claims 1-12, 14-33, 35-44 and 46-57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Herz in view of Rooney and in further view of Goykhman.

Applicant respectfully traverses the rejection, but in the interest of expediting prosecution has amended claims to more particularly distinguish the invention over the cited reference.

Independent claim 1 sets forth a method for predicting the behavior of a current user of an interactive television service. The method includes monitoring activity associated with a set top box of a current user engaging with the interactive television service, identifying, by the set top box, activities of the current user engaging with the interactive television service and conditions surrounding each of the identified activities of the current user, including amount of time the current user participated in each of the identified activities, accessing a first collection of data comprising data associated with cumulative activities associated with a set top box of other users conditions surrounding the cumulative activities associated with a set top box of the other users, including amount of time that each other user participated in each respective activity and patterns of behavior associated with the cumulative activities associated with a set top box of the other users and the conditions surrounding the cumulative activities associated with a set top box of the other users, wherein the cumulative activities include viewing interactive

television programming. The identified activities and surrounding conditions of the current user are compared with cumulative activities and surrounding conditions of the other users to identify similarities therebetween. A pattern of behavior associated with the identified similarity of activities and surrounding conditions between the current user and the other users is identified. The current user is attributed the identified pattern of behavior as a future behavior of the current user. Independent claims 17, 22, 35 and 46 set forth similar elements.

In contrast, Herz merely teaches a method that provides customized electronic identification of desirable objects, such as news articles, in an electronic media environment. A "target profile" is constructed for each target object. The target profile for each target object may be based, for example, on the frequency with which each word appears in an article relative to its overall frequency of use in all articles. The target profile also considers a "target profile interest summary" for each user. The target profile interest summary describes the user's interest level in various types of target objects. The system then evaluates the target profiles against the users' target profile interest summaries to generate a user-customized rank ordered listing of target objects most likely to be of interest to each user.

However, Herz fails to suggest monitoring activity associated with a set top box of a current user engaging with the interactive television service. Herz does not even mention set top boxes or the monitoring of activity associated with a set top box.

Herz also fails to suggest that the set top box identifies activities of the current user engaging with the interactive television service. Herz merely discloses that the surfing actions of a user are identified.

Herz also fails to suggest identifying the amount of time the current user participated in each of the identified activities associated with the set top box. Herz does not suggest that the amount of time the current user participated in each of the identified activities is an issue that warrants consideration.

Herz further fails to suggest accessing a data associated with cumulative activities associated with a set top box of other users, conditions surrounding the cumulative activities associated with a set top box of the other users, and patterns of behavior associated with the cumulative activities associated with a set top box of the other users and the conditions surrounding the cumulative activities associated with a set top box of the other users. Again, Herz is not concerned with the activities occurring through a set top box. Rather, Herz is only concerned with what web sites a user navigates to and the like.

Moreover, Herz fails to suggest identifying a pattern of behavior associated with the identified similarity of activities and surrounding conditions associated with a set top box of the user and the set top box of the other users. Herz is directed to determining frequency of words in a particular document relative to all documents. Herz does not a pattern of behavior associated with the identified similarity of activities and surrounding conditions associated with a set top box.

Herz also does not attribute to the current user the identified pattern of behavior as a future behavior of the current user. Herz merely discloses clustering users into groups according to the similarity of their user profiles to predict what a user might do next. However, the user profiles disclosed by Herz merely include an associative attribute that records the user's relevance feedback on target objects in the system. Thus, Herz fails to

attribute to the current user the identified pattern of behavior as a future behavior of the current user.

The Office Action admits that Herz fails to teach explicitly a set top box. However, the Office Action asserts that Rooney teaches a set top box. Nevertheless, Rooney fails to overcome the deficiencies of Herz.

Rather, Rooney merely discloses a method and system for providing data communication between a sender and a plurality of recipients. Rooney merely discloses that the set top box is provided to enable communication with a server 118. Other embodiments of communication, i.e., those that do not use the cable system, do not use a set top box. Thus, the set top box is merely a means for allowing a user to access server 118.

However, even if the set top box of Rooney is combined with the teaches of Herz, the combination fails to suggest monitoring activity associated with a set top box of a current user engaging with the interactive television service. Neither Herz nor Rooney even mentions monitoring of activity associated with a set top box.

The combination of Herz and Rooney also fails to suggest that the set top box identifies activities of the current user engaging with the interactive television service. Herz merely discloses that the surfing actions of a user are identified. Rooney merely discloses the exchanging of messages.

The combination of Herz and Rooney also fails to suggest identifying the amount of time the current user participated in each of the identified activities associated with the set top box. Neither Herz nor Rooney suggest that the amount of time the current user participated in each of the identified activities is an issue that warrants consideration.

The combination of Herz and Rooney further fails to suggest accessing a data associated with cumulative activities associated with a set top box of other users, conditions surrounding the cumulative activities associated with a set top box of the other users, and patterns of behavior associated with the cumulative activities associated with a set top box of the other users and the conditions surrounding the cumulative activities associated with a set top box of the other users. Herz is only concerned with what web sites a user navigates to and the like. Rooney merely discloses the exchanging of messages.

Moreover, the combination of Herz and Rooney fails to suggest identifying a pattern of behavior associated with the identified similarity of activities and surrounding conditions associated with a set top box of the user and the set top box of the other users. Herz is directed to determining frequency of words in a particular document relative to all documents. Herz does not a pattern of behavior associated with the identified similarity of activities and surrounding conditions associated with a set top box. Rooney merely discloses a set top box.

The combination of Herz and Rooney also does not attribute to the current user the identified pattern of behavior as a future behavior of the current user. Herz merely discloses clustering users into groups according to the similarity of their user profiles to predict what a user might do next. However, the user profiles disclosed by Herz merely include an associative attribute that records the user's relevance feedback on target objects in the system. Thus, Herz fails to attribute to the current user the identified pattern of behavior as a future behavior of the current user. Again, Rooney merely discloses a set top box.

Thus, Herz and Rooney , alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 1, 17, 22, 35 and 46, as amended.

Goykhman fails to overcome the deficiencies of Herz and Rooney.

As the activity tracking system 8 selects an activity identifier 32, its corresponding activity descriptor 62 is identified by the indicator 64 within the list of activity descriptors 62 displayed in the activity tracking window 60 to show it has been identified by the activity tracking system 8 as the current activity. The user can then evaluate whether the activity tracking system 8 has selected an appropriate activity descriptor 62 for the current activity. The activity tracking system then begins to record the elapsed time the user spends on the selected activity.

Accordingly, Goykhman merely discloses monitoring and tracking the activities of a user of a computer by establishing associations between the states of certain computer system parameters and specific activities. However, Goykhman fails to disclose the elements discussed above.

Goykhman fails to suggest monitoring activity associated with a set top box of a current user engaging with the interactive television service. Goykhman also fails to suggest that the set top box identifies activities of the current user engaging with the interactive television service. Rather, Goykhman is merely tracking the user's activity through a state of the computer of the user.

Goykhman also fails to suggest accessing a data associated with cumulative activities associated with a set top box of other users, conditions surrounding the cumulative activities associated with a set top box of the other users, and patterns of

behavior associated with the cumulative activities associated with a set top box of the other users and the conditions surrounding the cumulative activities associated with a set top box of the other users. Herz, Rooney and Goykhman, alone or in combination fail to suggest any thing to do with cumulative activities associated with a set top box of other users, conditions surrounding the cumulative activities associated with a set top box of the other users, and patterns of behavior associated with the cumulative activities associated with a set top box of the other users and the conditions surrounding the cumulative activities associated with a set top box of the other users.

Moreover, Goykhman fails to suggest identifying a pattern of behavior associated with the identified similarity of activities and surrounding conditions associated with a set top box of the user and the set top box of the other users. Again, Goykhman is merely cited as disclosing the recording of the elapsed time the user spends on the selected activity. Goykhman also does not attribute to the current user the identified pattern of behavior as a future behavior of the current user

Thus, Herz, Rooney and Goykhman, alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 1, 17, 22, 35 and 46, as amended.

Dependent claims 2, 5-7, 9-12, 14-16, 18-21, 23, 26-28, 30-33, 36, 39, 41-44, 47, 50-52 and 54-57 are also patentable over the references, because they incorporate all of the limitations of the corresponding independent claims 1, 9 and 17, respectively. Further dependent claims 2, 5-7, 9-12, 14-16, 18-21, 23, 26-28, 30-33, 36, 39, 41-44, 47, 50-52 and 54-57 recite additional novel elements and limitations. Applicant reserves the right

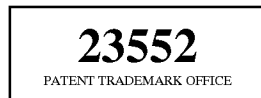
to argue independently the patentability of these additional novel aspects. Therefore, Applicant respectfully submits that dependent claims 2, 5-7, 9-12, 14-16, 18-21, 23, 26-28, 30-33, 36, 39, 41-44, 47, 50-52 and 54-57 are patentable over the cited references.

On the basis of the above amendments and remarks, it is respectfully submitted that the claims are in immediate condition for allowance. Accordingly, reconsideration of this application and its allowance are requested.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Attorney for Applicant, David W. Lynch, at 865-380-5976. If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 13-2725 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "David W. Lynch". The signature is fluid and cursive, written over a horizontal line.

By: \_\_\_\_\_  
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